IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Crl.Rev.Pet.No. 2701 of 2003()

CRA.30/2000 of ADDL.SESSIONS COURT (SPL.COURT), KOTTAYAM
CC.392/1997 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOTTAYAM

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REVN. PETITIONER: APPELLANT/ACCUSED

MOHANAN S/O. MANIYAN ACHARY,
POTHINJALIL HOUSE, ETTUMANOOR KARA AND VILLAGE,
KOTTAYAM TALUK

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.2701 of 2003

Dated this the 26th day of July, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 55(a) of the Abkari Act on the allegation that he was found in possession of 35 litres of toddy on 12.12.1996 and sentenced to undergo simple imprisonment for six months.

2. The contention of the counsel for the revision petitioner is that only Section 67(3) is attracted as there is no allegation that the commodity transported is illicit liquor. The alcohol content on chemical examination is only 5.5% by volume of ethyl alcohol. In the circumstances, it appears that the only violation can be with respect to the possession of excess quantity of liquor. Hence only the offence under Section 67(3) will be attracted. Hence, the conviction is converted for the offence under Section 63 of the Abkari Act. The accused is sentenced to pay a fine of Rs.3,000/- and in default, to undergo simple imprisonment for one month.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl